

REMARKS

Claim Objections

The Examiner has rejected Claims 1 – 20 for insufficient antecedent basis. Claims 1, 9, 10, and 15 were amended accordingly. Claims 11 and 16 are believed to be acceptable in light of the Amendments to claim 10 and 15 respectively. Therefore, based on the Amendments, the rejection is believed to be rendered moot.

Rejections under 35 U.S.C. § 103

The Examiner has rejected claims 1 – 5 under the obviousness provisions of 35 U.S.C. § 103 as allegedly being unpatentable over Falkenstein in view of HNG. The rejection is respectfully traversed.

Regarding Claim 1, the Examiner has admitted that “Falkenstein does not disclose hedging the amount of the bond by a swap wherein the amount of the bond hedged by the swap varies during the life of the swap” [Office Action of 1/28/04, Page 3 Second Paragraph]. The Examiner has further stated that “HNG teaches a financial strategy comprising hedging . . . wherein the amount of the security hedged by the swap varies during the life of the swap” [Office Action of 1/28/04, Page 3, Second Paragraph]. Even if this is true, the mere fact the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification. Falkenstein and HNG disclose two separate methods involving hedging and do not teach or suggest all methods of hedging. The Examiner has stated that the combination would have been obvious to produce an alternative financial instrument. However, simply being able to combine two separate teachings to produce a third teaching that is not taught or suggested in the two teachings does not make the third teaching obvious. The present invention may not be used as a blueprint to reconstruct the claimed invention out of isolated teachings in the prior art. Therefore, it is believed that independent Claim 1 is not obvious in light of Falkenstein and HNG and is therefore allowable. Accordingly, the associated dependent claims 2 – 8 are also believed allowable.

The Examiner has rejected claims 9 – 11 and 15 - 17 under the obviousness provisions of 35 U.S.C. § 103 as allegedly being unpatentable over Falkenstein in view of HNG and Interest Rate Swaps. The rejection is respectfully traversed.

Regarding Claim 9, a method of obtaining a compensatory hedge ratio, the Examiner has admitted that “Falkenstein does not disclose calculating a present value of a one basis point change in said swap yield; . . . calculating the compensatory hedge ratio by dividing (i)

said present value of one basis point change in said swap yield by (ii) said present value of a basis point change in said bond yield” [Office Action of 1/28/04, Page 5, Second Full Paragraph]. Further: “. . . calculating the present values is commonly used to obtain current values of projected future cash flows, it is inherent that the present value of each calculation may be made. Interest Rate Swaps teaches equations and techniques used to calculate swaps (p. 4 – 11 and 16 – 21)” [Office Action of 1/28/04, Page 7, First Paragraph]. However, it is unclear where Falkensteign, HNG, or Interest Rate Swaps “discloses calculating the compensatory hedge ratio by dividing (i) said present value of a one basis point change in said swap yield by (ii) said present value of a one basis point change in said bond yield”, as recited in Claim 9. The Examiner is respectfully requested to identify such disclosure. In lieu of such identification, it is respectfully submitted that all claim limitations must be considered, especially when they are missing from the prior art. In addition, the mere absence from the reference of an explicit requirement of the claim cannot reasonably be construed as an affirmative statement that the requirement is in the reference. While Interest Rate Swaps may disclose some equations and techniques used to calculate swaps, it does not stand to reason that the limited disclosure of Interest Rate Swap teaches all methods of obtaining a compensatory hedge ratio, and in particular, the method recited in Claim 9. Therefore, it is believed that independent Claim 9 is not obvious in light of Falkenstein, HNG, and Interest Rate Swaps and is therefore allowable. Accordingly, the associated dependent claims 10 - 14 are also believed allowable.

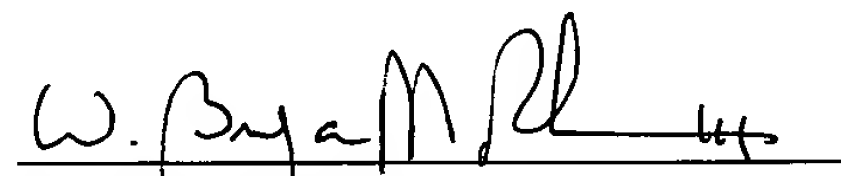
It is also unclear where HNG, or Interest Rate Swaps teach steps D through G, as recited in Claim 15 (a method of determining ineffectiveness using a compensatory hedge ratio). The Examiner is respectfully requested to identify such disclosure. In lieu of such identification, it is respectfully submitted that all claim limitations must be considered, especially when they are missing from the prior art. In addition, the mere absence from the reference of an explicit requirement of the claim cannot reasonably be construed as an affirmative statement that the requirement is in the reference. While Interest Rate Swaps may disclose some equations and techniques used to calculate swaps, it does not stand to reason that the limited disclosure of Interest Rate Swap teaches all methods of determining ineffectiveness using a compensatory hedge ratio, and in particular, the method recited in Claim 15. Therefore, it is believed that independent Claim 15 is not obvious in light of Falkenstein, HNG, and Interest Rate Swaps and is therefore allowable. Accordingly, the associated dependent claims 16 - 20 are also believed allowable.

The Examiner has rejected claims 12 - 14 and 18 - 20 under the obviousness provisions of 35 U.S.C. § 103 as allegedly being unpatentable over Falkenstein in view of HNG and Interest Rate Swaps, and further in view of King. In light of the above remarks regarding Claims 1, 9 and 15, it is believed that the independent Claims 1, 9 and 15, and accordingly the associated dependent claims (including claims 12 - 14 and 18 - 20) are allowable.

Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections, and that they withdraw them. The Examiner is courteously invited to telephone the undersigned representative if they believe that an interview might be useful for any reason.

Respectfully submitted,


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